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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re PETER C. et al., Persons Coming Under the Juvenile Court Law.
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SAN DIEGO COUNTY HEALTH AND HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

WILLIAM C.,

Defendant and Appellant.

D053567

(Super. Ct. No. EJ1641C-E)

APPEAL from orders of the Superior Court of San Diego County, Cynthia

Bashant, Judge. Affirmed.

William C. appeals orders of the juvenile court made at the contested jurisdiction and disposition hearing involving his minor children, Peter C., Jennifer C. and Melissa C. (together, minors). William contends the court erred by not making specific visitation orders for each minor. We affirm the orders.

FACTUAL AND PROCEDURAL BACKGROUND

In April 2008 the San Diego Health and Human Services Agency (Agency) filed petitions on behalf of then 11-year-old Peter, 10-year-old Jennifer and eight-year-old Melissa under Welfare and Institutions Code section 300, subdivisions (a) and (b). The petitions alleged William had physically abused the minors. The petitions further alleged William abused alcohol on a daily basis and the minors were in need of the court's protection.

According to the detention report, the family had extensive referrals between 1999 through 2008. In 1999 the minors became dependents of the juvenile court and were removed from parental custody because of ongoing domestic violence between the parents, William's alcohol abuse and physical abuse of the minors. The minors reunified with their mother in 2001 after the court awarded primary custody to the minors' mother. The minors' mother reported she gave William temporary custody of the children in August 2007.

The social worker reported William's physical abuse of the minors included punching, hitting, kicking and throwing the minors. The minors sometimes suffered bruising as a result of the violence. Peter told social workers that in April 2008, William threw him across the room causing Peter to hit his head on the television. Jennifer stated William threw her onto the sofa, and she suffered bruises as a result of the violence. Jennifer further stated she did not feel safe with William and feared he might do something that would result in her ending up in the hospital.

The court held a detention hearing in April 2008. The court detained the minors in out-of-home care and ordered supervised visitation between the minors and William. The court gave the Agency the authority to terminate visits if William discussed the case with the minors or if William appeared to be under the influence of alcohol. The court further gave the Agency discretion to lift supervised visits, with the concurrence of minors' counsel.

In the jurisdiction report, the social worker reported William had been arrested about six times for domestic violence and had three arrests for driving under the influence. He continued to abuse alcohol and continued to pose an immediate and long-term threat to the minors' overall safety. The minors indicated they were not comfortable around William and expressed being fearful of William even if a social worker was present to supervise their visits with William. The social worker later reported that Peter and Melissa were willing to have supervised visits with William. Jennifer stated she did not want to see William and was afraid of what he might do to her. Jennifer did not attend some of the supervised visits.

Concerning the minors' injuries stemming from the physical abuse, Jennifer sustained several bruises that an examining physician concluded were caused by inflicted trauma. In addition, Jennifer had a scar on her arm that was consistent with a cigarette burn. Peter sustained bruises on his lower abdomen that Peter stated resulted from William kicking him. Melissa claimed she received a bruise as a result of being thrown into the sofa. The social worker reported that given the traumatic experiences endured

by the minors, the minors should continue to participate in individual therapy and transition to conjoint therapy with William once approved by a therapist.

In an addendum report, the social worker reported William continued to deny the allegations and refused to participate in a substance abuse program. William visited with Peter and Melissa in late May 2008, but Jennifer refused to visit with him.

The court held a contested jurisdiction and disposition hearing in July 2008. Melissa testified William hit her almost daily and sometimes left bruises on her body. She also testified she saw William drinking alcohol. Melissa stated she wanted to continue visiting William, but she would be sad to live with William because she did not want to be hit anymore.

Jennifer testified William drank alcohol every day and if she had to live with William, she would run away. She described William pulling her hair and kicking her hard enough to leave bruises.

Peter stated he had also suffered abuse at the hands of William and saw William drink alcohol. Peter testified that he wanted to move away to "somewhere where [William] can't go" If the court placed him back with William, Peter stated he would run away.

William testified that he drank alcohol about two times a week. He admitted grabbing the minors by the hair but believed he did not suffer from anger management issues. He believed the minors lied to social workers and the court when they stated he regularly hit them. William further testified the minors lied when they reported he drank on a daily basis. He did not believe he had a drinking problem.

After considering the testimony and the Agency's reports, the court declared the minors dependents, removed them from William's custody and ordered them placed in out-of-home care.

DISCUSSION

I

The Court Properly Ordered Supervised Visits Between William and the Minors

William contends the court abused its discretion by not making specific visitation orders for each minor. Specifically, William asserts the court erred by entering an order that did not address Jennifer's refusal to participate in visits with him.

A. Standard of Review

The juvenile court defines a parent's visitation rights by balancing the parent's interests in visitation with the child's best interests. (*In re Jennifer G.* (1990) 221 Cal.App.3d 752, 757.) The court may impose restrictions on parental visitation, consistent with the child's best interests under the particular circumstances of the case. (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1009.) The state's interest in providing for the best interests of the child justifies any limited intrusion on a parent's right to visitation. (*In re Melissa H.* (1974) 38 Cal.App.3d 173, 175.) The court has broad discretion in making visitation orders, which we review for an abuse of discretion. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318; *In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351-1352.)

B. The Order for Supervised Visits Was Not an Abuse of Discretion

In determining there was some risk to the minors if visits with William were unsupervised, the court was entitled to consider evidence that William had refused to participate in reunification services necessary to alleviate the risk he presented to the minors. William continued to deny that he had anger management or alcohol abuse problems. He also denied the allegations that he abused the minors. The minors reported that they had been physically abused by William. Peter and Melissa testified in great detail about the abuse they suffered and both stated they were afraid of William. Jennifer also remained adamant throughout the dependency proceedings that she was afraid of William and did not want to see him. The social worker assessed that the minors remained at risk of suffering emotional and physical harm because William continued to abuse alcohol and needed to participate in additional services. In the social worker's opinion, William was not yet able to protect the minors. The court was entitled to find the social worker's opinion credible and give greater weight to her testimony than to the testimony of William. We cannot substitute our judgment for that of the trial court. (*In re Casey D.* (1999) 70 Cal.App.4th 38, 53.)

After finding that unsupervised visits would be detrimental to the minors, the court had the option of denying visitation altogether, but instead attempted to create a manner by which to facilitate contact while ensuring the minors' safety. (Welf. & Inst. Code,

§ 362.1, subd. (a)(1)(B).)¹ William argues he will not be able to visit with Jennifer because she refused to participate in supervised visits. However, the court encouraged visits to continue by ordering that the minors and William participate in individual and eventually, conjoint therapy. Thus, although Jennifer may have difficulty visiting William until more progress is made through therapy, the social workers were ordered to continue supervised contact whenever possible while maintaining the best interests of the minors.

The court's orders did not prevent visits with Jennifer or her siblings from taking place but instead, created a mechanism by which to facilitate reunification and progress between William and the minors while considering the detriment the minors would endure if the visits were not properly supervised. The orders for supervised visitation were in each minor's best interests and well within the court's broad discretion.

DISPOSITION

The orders are affirmed.

NARES, J.

WE CONCUR:

McCONNELL, P. J.

McDONALD, J.

¹ Welfare and Institutions Code section 362.1, subdivision (a)(1)(B) provides: "No visitation order shall jeopardize the safety of the child."